

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE AIRDAY,

Plaintiff,

- against -

THE CITY OF NEW YORK, KEITH SCHWAM, and
DAVID M. FRANKEL,

Defendants.

**DECLARATION OF
GARRETT KAMEN IN
SUPPORT OF
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT**

14-CV-8065 (RWS)

GARRETT S. KAMEN declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, attorney for defendants the City of New York, Keith Schwam, and David M. Frankel in the above-captioned action. I respectfully submit this declaration in support of defendants' motion for summary judgment.

2. Annexed hereto as Exhibits "A" through "HH" are true and correct copies of the documents which were produced in this action and/or are otherwise publicly available, and which are relied upon and cited in defendants' memorandum of law in support of defendants' motion for summary judgment and relied upon and cited in defendant's Local Civil Rule 56.1 Statement of Undisputed Facts.

3. The documents and excerpts are as follows:

Exhibit A: Excerpts from the transcript of the deposition of plaintiff George Aiday, taken in this action on March 29, 2017 ("Ex. A (Pl. Tr.)").

Exhibit B: Excerpts from the transcript of the deposition of defendant Keith Schwam, taken in this action on March 30, 2017 ("Ex. B (Schwam Tr.)").

- Exhibit C: Excerpts from the transcript of the deposition of Louis Jordan taken in this action on August 8, 2017 (“Ex. C (Jordan Tr.)”).
- Exhibit D: Excerpts from the transcript of the deposition of Caroline Tang-Alejandro taken in this action on August 17, 2017 (“Ex. D (Tang-Alejandro Tr.)”).
- Exhibit E: Excerpts from the transcript of the deposition of Andrew Salkin taken in this action on November 21, 2017 (“Ex. E (Salkin Tr.)”).
- Exhibit F: Plaintiff’s Complaint, ECF No. 1, filed on October 6, 2014 (“Ex. F (Compl.”).
- Exhibit G: Plaintiff’s Amended Complaint, ECF No. 34, filed on October 8, 2015 (“Ex. G (Am. Compl.”).
- Exhibit H: Comparison of plaintiff’s Complaint with plaintiff’s Amended Complaint (“Ex. H (Comparing Compl. with Am. Compl.”).
- Exhibit I: Marjorie Landa’s Affirmation in Opposition to Respondent’s Motion to Dismiss and Cross-Motion for Judgment on the Pleadings, dated March 28, 2013 (“Ex. I (Affirmation in Opposition to Respondent’s Motion to Dismiss and Cross-Motion for Judgment on the Pleadings”).
- Exhibit J: Excerpts from New York City Marshals Handbook of Regulations, including Joint Administrative Orders 453 and 456 (“Ex. J (Excerpts from Marshals’ Handbook”)).
- Exhibit K: Letter from Mayor Michael Bloomberg to plaintiff, dated January 22, 2009 (“Ex. K (1/22/2009 Bloomberg Letter”)).

- Exhibit L: Email from Keith Schwam to New York State Appellate Division for the First and Second Departments with enclosures, dated May 30, 2012 (“Ex. L (5/30/2012 Schwam Email with Enclosures”)).
- Exhibit M: Email from Keith Schwam to Rose Gill Hearn, dated December 22, 2011 (“Ex. M (12/22/2011 Schwam Email”)).
- Exhibit N: Email from Teresa Pinckney to Keith Schwam, dated January 10, 2012 (“Ex. N (1/10/2012 Pinckney Email”)).
- Exhibit O: Email from Keith Schwam to Rose Gill Hearn, dated January 19, 2012 (“Ex. O (1/19/2012 Schwam Email”).
- Exhibit P: Email from Keith Schwam to Teresa Pinckney with enclosures (“Ex. P (1/20/2012 Litwack Email & Cover Letter”)).
- Exhibit Q: DOI’s Weekly Status Reports for January 23, 2012, February 13, 2012, April 5, 2013, April 12, 2013, April 19, 2013, May 5, 2013, December 6, 2013, December 13, 2013, and December 20, 2013 (“Ex. Q (DOI’s Weekly Status Reports”)).
- Exhibit R: Letter from Teresa Pinckney to plaintiff, dated January 30, 2012 (“Ex. R (1/30/2012 Pinckney Letter”)).
- Exhibit S: Email from Teresa Pinckney to Keith Schwam (“Ex. S (1/31/2012 Pinckney Email”)).
- Exhibit T: Email from Edgar Domenech to Louis Jordan, dated February 9, 2012 (“Ex. T (2/9/2012 Domenech Email”)).
- Exhibit U: Letter from Keith Schwam to plaintiff’s attorney, dated February 10, 2012 (“Ex. U (2/10/2012 Schwam Letter”)).

- Exhibit V: Email from Keith Schwam to plaintiff and plaintiff's attorney without enclosures, dated June 1, 2012 ("Ex. V (6/1/2012 Schwam Email)").
- Exhibit W: Email from New York State Appellate Division for the First and Second Departments and enclosing Joint Administrative Order 2012-1, dated June 11, 2012 ("Ex. W (6/11/2012 Torres Email with Enclosure)").
- Exhibit X: Letter from Marjorie Landa with enclosures, dated June 13, 2012 ("Ex. X (6/13/2012 Landa Letter with Enclosures)").
- Exhibit Y: Transcript taken *In the Matter of Department of Investigation v. George Ariday*, Index No., 12-2038, on July 2 2012 ("Ex. Y (7/2/2012 OATH Tr.)").
- Exhibit Z: Letter from Howard Sterinbach to Keith Schwam, dated March 4, 2013 ("Ex. Z (3/4/2013 Sterinbach Letter)").
- Exhibit AA: Letter from Benet Kearney without enclosures ("Ex. AA (3/7/2013 Kearney Letter)").
- Exhibit BB: Email from Keith Schwam to New York State Appellate Division for the First and Second Departments with enclosures, dated May 23, 2013 ("Ex. BB (5/23/2013 Schwam Email)").
- Exhibit CC: Email exchange between New York State Appellate Division for the First and Second Departments, Keith Schwam, and plaintiff's attorney, dated May 29, 2013 ("Ex. CC (5/29/2013 Agostino Email)").

Exhibit DD: Email exchange between New York State Appellate Division for the First and Second Departments, Keith Schwam, and plaintiff's attorney, dated June 11, 2013 ("Ex. DD (6/11/2013 Agostino Email with Joint Admin. Order 2013-5)").

Exhibit EE: Memorandum by Keith Schwam entitled "Appointment of New City Marshal to Succeed City Marshal George Aiday" without enclosures, dated October 23, 2013 ("Ex. EE (10/23/2013 Schwam Memo.)").

Exhibit FF: Letter from Mayor Michael Bloomberg to plaintiff, dated December 21, 2013 ("Ex. FF (12/21/2013 Bloomberg Letter)").

Exhibit GG: Letter from Keith Schwam to plaintiff, dated December 23, 2013 ("Ex. GG (12/23/2013 Schwam Letter)").

Exhibit HH: Email from plaintiff with enclosures, dated January 17, 2014 ("Ex. HH (1/17/2014 Aiday Email)").

Dated: New York, New York
January 10, 2018

ZACHARY W. CARTER
Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street, 2-117
New York, New York 10007
(212) 356-2479
gkamen@law.nyc.gov

By: /s/ *G. H. K.*
Garrett S. Kamen
Assistant Corporation Counsel